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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL HOUSING FINANCE AGENCY,
in its capacity as Conservator of Federal
National Mortgage Association and Federal
Home Loan Mortgage Corporation; FEDERAL
NATIONAL MORTGAGE ASSOCIATION;
and FEDERAL HOME LOAN MORTGAGE
CORPORATION,

Plaintiffs,

vs.

THUNDER PROPERTIES, INC.,

Defendant.

Case No.:

COMPLAINT

Plaintiffs Federal Housing Finance Agency (“FHFA” or the “Conservator”), in its capacity as Conservator for Federal National Mortgage Association (“Fannie Mae”) and Federal Home Loan Mortgage Corporation (“Freddie Mac,” and together with Fannie Mae, the “Enterprises”), Fannie

Mae, and Freddie Mac, by and through their attorneys of record, for their Complaint against Thunder Properties, Inc. (“Thunder Properties”), allege as follows:¹

I. INTRODUCTION

1. This is an action for (1) a declaratory judgment that notwithstanding any contrary Nevada law, federal law prevents foreclosure of an HOA lien from extinguishing a Fannie Mae, Freddie Mac, or Conservator lien on a property while the Enterprise is in FHFA conservatorship, and that therefore the Enterprise Liens continued to encumber the properties notwithstanding the HOA Foreclosure Sales, and (2) a quiet-title judgment recognizing the continued validity of the Enterprise Liens.

2. In July 2008, Congress passed the Housing and Economic Recovery Act of 2008 (“HERA”), Pub. L. No. 110–289, 122 Stat. 2654, *codified at* 12 U.S.C. § 4511 *et seq.* HERA includes an array of broad privileges, immunities, and exemptions from otherwise applicable law that facilitate the Conservator’s exercise of its statutory powers. Here, 12 U.S.C. § 4617(j)(3) mandates that while Fannie Mae and Freddie Mac are in conservatorship, none of their property “shall be subject to . . . foreclosure[] . . . without the consent of [FHFA].”

3. A Nevada statute provides HOAs with super-priority liens that HOAs may foreclose to recover up to nine months of delinquent HOA dues. Nev. Rev. Stat. § 116.3116(2). Nevada law allows HOAs to recover only up to six months of delinquent HOA dues where an Enterprise Lien encumbers the property. *Id.* The Nevada Supreme Court has held that a foreclosure authorized and properly conducted under Nev. Rev. Stat. § 116.3116 can extinguish other interests in the underlying property, including deeds of trust. *SFR Invs. Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d 408 (Nev. 2014).

4. The Conservator has not consented to the extinguishment of either Enterprise’s interest in any property that has been the subject of an HOA Foreclosure Sale.

5. Defendant is the current record owner of at least 13 properties that have been the subject of completed HOA Foreclosure Sales and are encumbered by Enterprise Liens.

¹ Capitalized terms not defined in the text, *supra* and *infra*, are defined in Section II at ¶¶ 7-11.

6. Because Section 4617(j)(3) preempts Nev. Rev. Stat. § 116.3116, HOA Foreclosure Sales did not extinguish the Enterprises’ interests in the subject properties, and, therefore, Thunder Properties has taken title subject to Enterprise Liens. *See, e.g., Skylights LLC v. Byron*, 112 F. Supp. 3d 1145, 1152 (D. Nev. 2015) (“[A] straightforward reading of the statutory language bars the HOA’s foreclosure in this case from extinguishing the Deed of Trust without FHFA’s consent, regardless of the HOA lien’s super-priority under state law.”); *id.* at 1159 (“The Court finds that 12 U.S.C. § 4617(j)(3) preempts Nevada Revised Statutes § 116.3116 to the extent that a homeowner association’s foreclosure of its super-priority lien cannot extinguish a property interest of Fannie Mae or Freddie Mac while those entities are under FHFA’s conservatorship.”).

II. DEFINITIONS

7. “Common-Interest Community” means “real estate described in a declaration with respect to which a person, by virtue of an ownership interest in a [U]nit” located within the community, “is obligated to pay for a share of real estate taxes, insurance premiums, maintenance or improvement of, or services or other expenses related to common elements, Units, or other real property described in the declaration.” Nev. Rev. Stat. § 116.021(1).

8. “Enterprise Lien” means a lien owned by Fannie Mae, Freddie Mac, or the Conservator that is evidenced by a deed of trust relating to a mortgage loan for which a Unit serves as collateral.

9. “Homeowners’ Association” or “HOA” is any Unit-owners’ “association organized under Nev. Rev. Stat. § 116.3101.” *Id.* § 116.011.

10. “HOA Foreclosure Sale” means completed HOA foreclosure proceedings provided for in Nev. Rev. Stat. § 116.3116(2).

11. “Unit” means “a physical portion of a [C]ommon-[I]nterest [C]ommunity” that is “designated for separate ownership or occupancy, the boundaries of which are” created by the declaration related to the Common-Interest Community. *See* Nev. Rev. Stat. § 116.093 (citing Nev. Rev. Stat. § 116.2105); *id.* § 116.037 (defining declarations as “any instruments, however denominated, that create a [C]ommon-[I]nterest [C]ommunity, including any amendments to those instruments”).

III. PARTIES

12. FHFA is an independent federal agency created under HERA on July 30, 2008, as the exclusive federal supervisory regulator of Fannie Mae and Freddie Mac. HERA authorizes FHFA to place the Enterprises into conservatorships and to act as their Conservator.

13. On September 6, 2008, the Director of FHFA placed the Enterprises into conservatorships and appointed FHFA as their Conservator. In that capacity, FHFA succeeded to “all rights, titles, powers, and privileges” of each Enterprise, including but not limited to the authority to bring suits on behalf of either or both Enterprises. *See* 12 U.S.C. § 4617(b)(2). FHFA brings this action in its capacity as Conservator of the Enterprises. The Conservator is located at 400 Seventh Street, S.W., in Washington, District of Columbia.

14. Fannie Mae is a government-sponsored enterprise chartered by Congress with the mission to provide stability and liquidity to the United States housing and mortgage markets by establishing secondary mortgage market facilities for residential mortgages. *See id.* § 1716. Fannie Mae is located at 3900 Wisconsin Avenue, N.W., in Washington, District of Columbia.

15. Freddie Mac is a government-sponsored enterprise chartered by Congress with the mission to provide liquidity, stability, and affordability to the United States housing and mortgage markets, including by establishing secondary market facilities for residential mortgages and by promoting access to mortgage credit throughout the nation. *Id.* § 1451 note. Freddie Mac is located at 8200 Jones Branch Drive in McLean, Virginia.

16. The Enterprises fulfill their congressionally mandated missions by purchasing residential mortgage loans originated by banks and other qualified lenders that use the proceeds from those sales to originate additional mortgages. The Enterprises finance these purchases by bundling the purchased mortgage loans into mortgage-backed securities that are sold to investors with ownership of the mortgage loans themselves remaining with the Enterprises.

17. The Enterprises’ purchase of mortgage loans gives rise to a property interest in the Units that secure the mortgage debt, including an ownership interest and a security interest in the deeds of trust and the liens securing that debt.

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18. Defendant Thunder Properties is a Nevada domestic corporation that purchases, leases, and manages residences in Nevada. Thunder Properties is located at 397 3rd Avenue, Suite A, Chula Vista, California. It also maintains places of business at 6360 East Sahara Avenue, Las Vegas, Nevada and 966 Bernice Court, Sparks, Nevada.

IV. JURISDICTION AND VENUE

19. This action seeks declaratory and injunctive relief under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, including but not limited to a declaration under Nevada’s quiet-title statute, Nev. Rev. Stat. § 40.010.

20. The Court has subject matter jurisdiction over this matter pursuant to at least four statutory provisions:

- 28 U.S.C. § 1332, because all Plaintiffs are “citizens of different states” than Thunder Properties, and “the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs”;
- 28 U.S.C. § 1331, because the claims asserted “aris[e] under the Constitution [and] laws . . . of the United States”;
- 12 U.S.C. § 1452(f), which provides that “[n]otwithstanding . . . any other provision of law . . . all civil actions to which [Freddie Mac] is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value”; and
- 12 U.S.C. § 1723a(a), which provides that Fannie Mae may “sue” and “complain” in any Federal court of competent jurisdiction.

21. Venue lies in the U.S. District Court for the District of Nevada pursuant to 28 U.S.C. § 1391, because Thunder Properties is a Nevada domestic corporation, and a substantial part of the events or omissions giving rise to the claims occurred in this District.

22. This Court may assume and exercise in rem jurisdiction over the properties at issue here as none of the Units identified in this Complaint are the subjects of Nevada state court litigation.

23. The Court has personal jurisdiction over Thunder Properties because this lawsuit arises out of and is connected with Thunder Properties’ purposeful purchase of interests in Units sited in Nevada. Moreover, Thunder Properties is a Nevada domestic corporation.

V. THE CONTROVERSY AND PLAINTIFFS' STANDING

24. This action arises out of the Parties' disputed rights in residential Units that are sited within Common-Interest Communities and were, at the time of the HOA Foreclosure Sales, encumbered by Enterprise Liens. These Units have been the subject of HOA Foreclosure Sales.

25. Thunder Properties is the current record owner of the following 13 Units (collectively, the "Properties"). The information for each is summarized in this table:

Property Address	APN	Current Record Owner	Loan Number
1013 Ringneck Way, Sparks, NV	530-342-05	THUNDER PROPERTIES INC	Fannie Mae 1701710672
10527 Meeks Bay Court, Reno, NV	160-684-10	THUNDER PROPERTIES INC	Fannie Mae 1703340147
13131 Mount Logan Street, Reno, NV	086-754-14	THUNDER PROPERTIES INC	Fannie Mae 1699072349
13483 Mount Whitney Street, Reno, NV	086-748-07	THUNDER PROPERTIES INC	Fannie Mae 1704185449
1691 York Way, Sparks, NV	027-490-02	THUNDER PROPERTIES INC	Fannie Mae 1695080036
2300 Dickerson Road, Unit 13, Reno, NV	006-300-06	THUNDER PROPERTIES INC	Fannie Mae 1709634948
2655 Daffodil Way, Reno, NV	004-393-93	THUNDER PROPERTIES INC	Fannie Mae 1703074272
3433 Skyline Boulevard, Reno, NV	023-421-03	THUNDER PROPERTIES INC	Fannie Mae 600239744
6850 Sharlands Avenue, Unit L-1072, Reno, NV	212-078-27	THUNDER PROPERTIES INC	Fannie Mae 4004976984
872 Tanager Street, No. 38, Incline Village, NV	132-560-21	THUNDER PROPERTIES INC	Fannie Mae 1698692031
9471 Canyon Meadows Drive, Reno, NV	550-294-11	THUNDER PROPERTIES INC	Freddie Mac #####3863
8870 Dixon Lane, Reno, NV	043-102-13	THUNDER PROPERTIES INC	Freddie Mac #####6691
7013 Voyage Drive, Sparks, NV	526-533-06	THUNDER PROPERTIES INC	Fannie Mae 1704882212

26. Fannie Mae purchased the loan for which 1013 Ringneck Way, Sparks, Nevada (the "Ringneck Way Property") served as collateral on or about August 1, 2006, and the deed of trust for that loan encumbered the Ringneck Way Property at the time of the HOA foreclosure sale. The Ringneck Way Property, APN 530-342-05, is subject to a declaration of covenants, conditions, and

1 restrictions for Eagle Canyon Homeowners' Association ("Eagle Canyon HOA"). On or about
2 May 20, 2011, Red Rock Financial Services, as agent for Eagle Canyon HOA, recorded a lien on
3 the Ringneck Way Property for delinquent HOA dues. Red Rock Financial Services, as agent for
4 Eagle Canyon HOA, filed a notice of default and election to sell under homeowners' association
5 lien on or about July 5, 2011. Red Rock Financial Services, as agent for Eagle Canyon HOA,
6 recorded a notice of foreclosure sale on or about July 10, 2013. The HOA foreclosure sale was held
7 on or about August 7, 2013, and Red Rock Financial Services, as agent for Eagle Canyon HOA,
8 sold the Ringneck Way Property to Thunder Properties for \$4,200.00. On or about August 26,
9 2013, Red Rock Financial Services, as agent for Eagle Canyon HOA, recorded a foreclosure deed
10 that transferred the Ringneck Way Property to Thunder Properties.

11 27. Fannie Mae purchased the loan for which 10527 Meeks Bay Court, Reno, Nevada
12 (the "Meeks Bay Court Property") served as collateral on or about April 1, 2007, and the deed of
13 trust for that loan encumbered the Meeks Bay Court Property at the time of the HOA foreclosure
14 sale. The Meeks Bay Court Property, APN 160-684-10, is subject to a declaration of covenants,
15 conditions, and restrictions for the Double Diamond Ranch Master Association ("Double Diamond
16 Ranch MA"). On or about February 1, 2011, Alessi & Koenig, LLC ("Alessi & Koenig"), as
17 trustee for Double Diamond Ranch MA, recorded a notice of lien on the Meeks Bay Court Property
18 for delinquent HOA dues. Alessi & Koenig, as trustee for Double Diamond Ranch MA, filed a
19 notice of default and election to sell under homeowners' association lien on or about June 8, 2011.
20 Alessi & Koenig, as trustee for Double Diamond Ranch MA, recorded a notice of trustee's sale on
21 or about March 13, 2013. The HOA trustee's sale was held on or about April 4, 2013, and Alessi &
22 Koenig, as trustee for Double Diamond Ranch MA, sold the Meeks Bay Court Property to Thunder
23 Properties for \$14,500.00. On or about May 2, 2013, Alessi & Koenig, as trustee for Double
24 Diamond Ranch MA, recorded a trustee's deed upon sale that transferred the Meeks Bay Court
25 Property to LVDG, LLC, Series 105. On or about July 22, 2015, LVDG, LLC, Series 105 recorded
26 a grant deed that transferred the Meeks Bay Court Property to Thunder Properties.

27 28. Fannie Mae purchased the loan for which 13131 Mount Logan Street, Reno, Nevada
28 (the "Mount Logan Street Property") served as collateral on or about August 1, 2005, and the deed

1 of trust for that loan encumbered the Mount Logan Street Property at the time of the HOA
2 foreclosure sale. The Mount Logan Street Property, APN 086-754-14, is subject to a declaration of
3 covenants, conditions, and restrictions for Sierra View Estates Unit One Homeowners' Association
4 ("Sierra View Estates Unit One HOA"). On or about February 17, 2012, Kern & Associates, Ltd.
5 ("Kern & Associates"), as attorney for Sierra View Estates Unit One HOA, recorded a notice of lien
6 on the Mount Logan Street Property for delinquent HOA dues. Phil Frink & Associates, Inc., as
7 agent for Sierra View Estates Unit One HOA, filed a notice of default and election to sell under
8 homeowners' association lien on or about April 19, 2012. Kern & Associates, as attorney for Sierra
9 View Estates Unit One HOA, recorded a notice of homeowners association sale on or about
10 June 13, 2014. The HOA foreclosure sale was held on or about August 7, 2014, and Kern &
11 Associates, as attorney for Sierra View Estates Unit One HOA, sold the Mount Logan Street
12 Property to Thunder Properties for \$6,600.00. On or about August 22, 2014, Kern & Associates, as
13 attorney for Sierra View Estates Unit One HOA, recorded a deed in foreclosure of assessment lien
14 that transferred the Mount Logan Street Property to Thunder Properties.

15 29. Fannie Mae purchased the loan for which 13483 Mount Whitney Street, Reno,
16 Nevada (the "Mount Whitney Street Property") served as collateral on or about July 1, 2007, and
17 the deed of trust for that loan encumbered the Mount Whitney Street Property at the time of the
18 HOA foreclosure sale. The Mount Whitney Street Property, APN 086-748-07, is subject to a
19 declaration of covenants, conditions, and restrictions for Sierra View Estates Unit One HOA. On or
20 about May 2, 2013, Kern & Associates, as attorney for Sierra View Estates Unit One HOA,
21 recorded a notice of lien on the Mount Whitney Street Property for delinquent HOA dues. Kern &
22 Associates, as attorney for Sierra View Estates Unit One HOA, filed a notice of default and election
23 to sell under homeowners' association lien on or about June 25, 2013. Kern & Associates, as
24 attorney for Sierra View Estates Unit One HOA, recorded a notice of homeowners association sale
25 on or about June 3, 2014. The HOA foreclosure sale was held on or about August 7, 2014, and
26 Kern & Associates, as attorney for Sierra View Estates Unit One HOA, sold the Mount Whitney
27 Street Property to Thunder Properties for \$5,301.00 On or about August 22, 2014, Kern &
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1 Associates, as attorney for Sierra View Estates Unit One HOA, recorded a deed in foreclosure of
2 assessment lien that transferred the Mount Whitney Street Property to Thunder Properties.

3 30. Fannie Mae purchased the loan for which 1691 York Way, Sparks, Nevada (the
4 “York Way Property”) served as collateral on or about March 1, 2004, and the deed of trust for that
5 loan encumbered the York Way Property at the time of the HOA foreclosure sale. The York Way
6 Property, APN 027-490-02, is subject to a declaration of covenants, conditions, and restrictions for
7 Yorkshire Manor Association (“Yorkshire Manor”). On or about March 1, 2013, Kern &
8 Associates, as attorney for Yorkshire Manor, recorded a notice of lien on the York Way Property
9 for delinquent HOA dues. Kern & Associates, as attorney for Yorkshire Manor, filed a notice of
10 default and election to sell under homeowners’ association lien on or about July 8, 2013. Kern &
11 Associates, as attorney for Yorkshire Manor, recorded a notice of homeowners association sale on
12 or about December 31, 2013. The HOA foreclosure sale was held on or about January 22, 2014,
13 and Kern & Associates, as attorney for Yorkshire Manor, sold the York Way Property to Thunder
14 Properties for \$8,410.00. On or about February 27, 2014, Kern & Associates, as attorney for
15 Yorkshire Manor, recorded a deed in foreclosure of assessment lien that transferred the York Way
16 Property to Thunder Properties.

17 31. Fannie Mae purchased the loan for which 2300 Dickerson Road, Unit 13, Reno,
18 Nevada (the “Dickerson Road Property”) served as collateral on or about July 9, 2009, and the deed
19 of trust for that loan encumbered the Dickerson Road Property at the time of the HOA foreclosure
20 sale. The Dickerson Road Property, APN 006-300-06, is subject to a declaration of covenants,
21 conditions, and restrictions for Shoreline Condominium Association (Shoreline CA”). On or about
22 September 12, 2013, Shoreline CA attached an assessment lien on the Dickerson Road Property for
23 delinquent HOA dues. On or about November 7, 2013, Hampton & Hampton Collection, LLC (“H
24 & H”), as trustee for Shoreline CA, filed a notice of default and election to sell under homeowners’
25 association lien. H & H, as trustee for Shoreline CA, recorded a notice of trustee’s sale on or about
26 July 23, 2014. The HOA trustee’s sale was held on or about September 18, 2014, and H & H, as
27 trustee for Shoreline CA, sold the Dickerson Road Property to Thunder Properties for \$7,913.00.
28

1 On or about October 20, 104, H & H, as trustee for Shoreline CA, recorded a trustee's deed upon
2 sale that transferred the Dickerson Road Property to Thunder Properties.

3 32. Fannie Mae purchased the loan for which 2655 Daffodil Way, Reno, Nevada (the
4 "Daffodil Way Property") served as collateral on or about February 1, 2007, and the deed of trust
5 for that loan encumbered the Daffodil Way Property at the time of the HOA foreclosure sale. The
6 Daffodil Way Property, APN 004-393-93, is subject to a declaration of covenants, conditions, and
7 restrictions for Sierra Gardens Homeowners' Association ("Sierra Gardens HOA"). On or about
8 January 17, 2013, Sierra Gardens HOA recorded a notice of lien on the Daffodil Way Property for
9 delinquent HOA dues. Allied Trustee Services, as trustee for Sierra Gardens HOA, filed a notice of
10 default and election to sell under homeowners' association lien on or about February 21, 2013.
11 Allied Trustee Services, as trustee for Sierra Gardens HOA, recorded a notice of trustee's sale on or
12 about June 4, 2013. The HOA trustee's sale was held on or about July 2, 2013, and Allied Trustee
13 Services, as trustee for Sierra Gardens HOA, sold the Daffodil Way Property to Thunder Properties
14 for \$3,098.33. On or about July 25, 2013, Allied Trustee Services, as trustee for Sierra Gardens
15 HOA, recorded a trustee's deed upon sale that transferred the Daffodil Way Property to Thunder
16 Properties.

17 33. Fannie Mae purchased the loan for which 3433 Skyline Boulevard, Reno, Nevada
18 (the "Skyline Boulevard Property") served as collateral on or about May 10, 2006, and the deed of
19 trust for that loan encumbered the Skyline Boulevard Property at the time of the HOA foreclosure
20 sale. The Skyline Boulevard Property, APN 023-421-03, is subject to a declaration of covenants,
21 conditions, and restrictions for Skyline Villas Association, Inc. ("Skyline Villas"). On or about
22 September January 24, 2013, Skyline Villas attached an assessment lien on the Skyline Boulevard
23 Property for delinquent HOA dues. On or about April 25, 2013, H & H, as trustee for Skyline
24 Villas, recorded a notice of default and election to sell under homeowners' association lien. H & H,
25 as trustee for Skyline Villas, recorded a notice of trustee's sale on or about October 10, 2013. The
26 HOA trustee's sale was held on or about November 12, 2013, and H & H, as trustee for Skyline
27 Villas, sold the Skyline Boulevard Property to Thunder Properties for \$9,359.01. On or about
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1 November 27, 2013, H & H, as trustee for Skyline Villas, recorded a trustee's deed upon sale that
2 transferred the Skyline Boulevard Property to Thunder Properties.

3 34. Fannie Mae purchased the loan for which 6850 Sharlands Avenue, Unit L-1072,
4 Reno, Nevada (the "Sharlands Avenue Property") served as collateral on or about August 24, 2006,
5 and the deed of trust for that loan encumbered the Sharlands Avenue Property at the time of the
6 HOA foreclosure sale. The Sharlands Avenue Property, APN 212-078-27, is subject to a
7 declaration of covenants, conditions, and restrictions for Silver Creek Condo Association ("Silver
8 Creek CA"). On or about January 12, 2011, H & H, as trustee for Silver Creek CA, recorded a
9 notice of lien on the Sharlands Avenue Property for delinquent HOA dues. H & H, as trustee for
10 Silver Creek CA, filed a notice of default and election to sell under homeowners' association lien on
11 or about July 9, 2012. H & H, as trustee for Silver Creek CA, recorded a notice of trustee's sale on
12 or about October 10, 2013. The HOA trustee's sale was held on or about November 6, 2013, and H
13 & H, as trustee for Silver Creek CA, sold the Sharlands Avenue Property to Thunder Properties for
14 \$10,879.13. On or about November 21, 2013, H & H, as trustee for Silver Creek CA, recorded a
15 trustee's deed upon sale that transferred the Sharlands Avenue Property to Thunder Properties.

16 35. Fannie Mae purchased the loan for which 872 Tanager Street, No. 38, Incline
17 Village, Nevada (the "Tanager Street Property") served as collateral on or about June 1, 2005, and
18 the deed of trust for that loan encumbered the Tanager Street Property at the time of the HOA
19 foreclosure sale. The Tanager Street Property, APN 132-560-21, is subject to a declaration of
20 covenants, conditions, and restrictions for Pinebrook Homeowners' Association ("Pinebrook
21 HOA"). On or about September 23, 2011 and September 26, 2012, Pinebrook HOA attached
22 assessment liens on the Tanager Street Property for delinquent HOA dues. On or about March 4,
23 2014, H & H, as trustee for Pinebrook HOA, recorded a notice of default and election to sell for the
24 Tanager Street Property. H & H, as trustee for Pinebrook HOA, recorded a notice of trustee's sale
25 on or about June 16, 2014. H & H, as trustee for Pinebrook HOA, recorded a corrected notice of
26 trustee's sale on or about June 16, 2014. The HOA trustee's sale was held on or about July 31,
27 2014, and H & H, as trustee for Pinebrook HOA, sold the Tanager Street Property to Thunder
28 Properties for \$9,777.00. On or about September 4, 2014, H & H, as trustee for Pinebrook HOA,

1 recorded a foreclosure deed upon sale that transferred the Tanager Street Property to Thunder
2 Properties.

3 36. Freddie Mac purchased the loan for which 9471 Canyon Meadows Drive, Reno,
4 Nevada (the “Canyon Meadows Drive Property”) served as collateral on or about September 7,
5 2005, and the deed of trust for that loan encumbered the Canyon Meadows Drive Property at the
6 time of the HOA foreclosure sale. The Canyon Meadows Drive Property, APN 550-294-11, is
7 subject to a declaration of covenants, conditions, and restrictions for Sky Vista Homeowners’
8 Association (“Sky Vista HOA”). On or about April 18, 2011, Kern & Associates, as attorney for
9 Sky Vista HOA, recorded a notice of lien on the Canyon Meadows Drive Property for delinquent
10 HOA dues. Kern & Associates, as attorney for Sky Vista HOA, filed a notice of default and
11 election to sell under homeowners’ association lien on or about June 27, 2012. Kern & Associates,
12 as attorney for Sky Vista HOA, recorded a notice of homeowners association sale on or about
13 November 1, 2012. The HOA foreclosure sale was held on or about April 30, 2013, and Kern &
14 Associates, as attorney for Sky Vista HOA, sold the Canyon Meadows Drive Property to Sky Vista
15 HOA for \$400.00. On or about June 12, 2013, Kern & Associates, as attorney for Sky Vista HOA,
16 recorded a deed in foreclosure of assessment lien that transferred the Canyon Meadows Drive
17 Property to Sky Vista HOA. On or about June 12, 2013, Sky Vista HOA recorded a quit claim deed
18 that transferred the Canyon Meadows Drive Property to Westland Construction Corporation. On or
19 about August 26, 2013, Westland Construction Corporation recorded a quitclaim deed that
20 transferred the Canyon Meadows Drive Property to Thunder Properties.

21 37. Freddie Mac purchased the loan for which 8870 Dixon Lane, Reno, Nevada (the
22 “Dixon Lane Property”) served as collateral on or about June 13, 2012, and the deed of trust for that
23 loan encumbered the Dixon Lane Property at the time of the HOA foreclosure sale. The Dixon
24 Lane Property, APN 043-102-13, is subject to a declaration of covenants, conditions, and
25 restrictions for Meadow Creek Village Townhouse Homeowners’ Association (“Meadow Creek
26 Village Townhouse HOA”). On or about July 29, 2014, Alessi & Koenig, as trustee for Meadow
27 Creek Village Townhouse HOA, recorded a notice of lien on the Dixon Lane Property for
28 delinquent HOA dues. Alessi & Koenig, as trustee for Meadow Creek Village Townhouse HOA,

1 filed a notice of default and election to sell under homeowners' association lien on or about October
2 17, 2014. Alessi & Koenig, as trustee for Meadow Creek Village Townhouse HOA, recorded a
3 notice of trustee's sale on or about April 13, 2015. The HOA trustee's sale was held on or about
4 May 14, 2015, and Alessi & Keonig, as trustee for Meadow Creek Village Townhouse HOA, sold
5 the Dixon Lane Property to Thunder Properties for \$20,500.00. On or about May 20, 2015, Alessi
6 & Koenig, as trustee for Meadow Creek Village Townhouse HOA, recorded a trustee's deed upon
7 sale that transferred the Dixon Lane Property to Thunder Properties.

8 38. Fannie Mae purchased the loan for which 7013 Voyage Drive, Sparks, Nevada (the
9 "Voyage Drive Property") served as collateral on or about October 1, 2007, and the deed of trust for
10 that loan encumbered the Voyage Drive Property at the time of the HOA foreclosure sale. The
11 Voyage Drive Property, APN 526-533-06, is subject to a declaration of covenants, conditions, and
12 restrictions for the Foothills at Wingfield Homeowners' Association ("Foothills at Wingfield
13 HOA"). On or about April 5, 2013, Fuller Jenkins Clarkson (the "Clarkson Law Group"), as
14 attorney for Foothills at Wingfield HOA, recorded a notice of lien on the Voyage Drive Property for
15 delinquent HOA dues. The Clarkson Law Group, as attorney for Foothills at Wingfield HOA, filed
16 a notice of default and election to sell under homeowners' association lien on or about May 15,
17 2013. The Clarkson Law Group, as attorney for Foothills at Wingfield HOA, recorded a notice of
18 trustee/foreclosure sale on or about May 19, 2014. The HOA trustee's sale was held on or about
19 June 17, 2014, and the Clarkson Law Group, as attorney for Foothills at Wingfoot HOA, sold the
20 Voyage Drive Property to Thunder Properties for \$5,800.00. On or about September 4, 2014, the
21 Clarkson Law Group, as attorney for Foothills at Wingfoot HOA, recorded a trustee's deed upon
22 sale that transferred the Voyage Drive Property to Thunder Properties.

23 39. On information and belief, Thunder Properties owns additional properties to which it
24 has taken title through or following completed HOA Foreclosure Sales. On information and belief,
25 some of those properties were encumbered by Enterprise Liens at the time of the HOA Foreclosure
26 Sales.

27 40. Plaintiffs have been injured by the HOA foreclosure sales of the Properties described
28 herein as a consequence of the purported extinguishment of their liens due to the HOA Foreclosure

Sales described in ¶¶ 26-39, and an order granting the relief sought herein would redress those injuries. Plaintiffs, therefore, have standing to maintain this action.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

(Declaratory Relief)

41. Plaintiffs reassert and incorporate herein by reference the allegations contained in ¶¶ 1–40 above, as though fully set forth herein.

42. Pursuant to 28 U.S.C. § 2201 and Nev. Rev. Stat. § 40.010, this Court is empowered to declare the rights and legal relations of the parties in this matter, both generally and in relation to the HOA foreclosure sales and the Properties.

43. The deeds of trust were first secured interests on the Properties and the Plaintiffs, or one of them, held an interest in the Deeds of Trust.

44. FHFA, Conservator of the Enterprises, is an independent agency of the federal government. *See* 12 U.S.C. § 4511(a).

45. Upon its appointment, the Conservator succeeded by law to all of the Enterprises’ “rights, titles, powers, and privileges.” *Id.* § 4617(b)(2)(1)(A)(i).

46. During the conservatorships, “[n]o property of [FHFA] shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of [FHFA], nor shall any involuntary lien attach to the property of [FHFA].” *Id.* § 4617(j)(3).

47. Enterprise Liens are property of the Conservator. *See, e.g., Skylights*, 112 F. Supp. 3d at 1155 (“[T]he property of Fannie Mae effectively becomes the property of FHFA once it assumes the role of conservator, and that property is protected by section 4617(j)’s exemptions.”); *Premier One*, 2015 WL 4276169, at *3 (“Fannie Mae has held an interest in the Property since [it purchased the associated mortgage] on December 1, 2006.”); *Williston*, 2015 WL 4276144, at *3 (“Freddie Mac has held an interest in the Property since” it purchased the associated mortgage and, therefore, “FHFA held an interest in the Deed of Trust as conservator for Freddie Mac”).

1 48. Applying Chapter 116 of the Nevada Revised Statutes or other state law in a manner
2 that would have extinguished Fannie Mae's and/or Freddie Mac's first position deeds of trust
3 violates 12 U.S.C. § 4617(j)(3).

4 49. FHFA did not consent to any purported extinguishment of Fannie Mae's or Freddie
5 Mac's deeds of trust that encumbered the Properties. FHFA's Statement on HOA Super-Priority
6 Lien Foreclosures dated Apr. 21, 2015, [www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-](http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx)
7 [HOA-Super-Priority-Lien-Foreclosures.aspx](http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-on-HOA-Super-Priority-Lien-Foreclosures.aspx).

8 50. Pursuant to 12 U.S.C. § 4617(j)(3), the HOA foreclosure sales could not extinguish
9 Fannie Mae's and/or Freddie Mac's first secured interests. Plaintiffs are entitled to a declaration
10 that 12 U.S.C. § 4617(j)(3) preempts any state law that would permit an HOA foreclosure sale to
11 extinguish a first secured interest of Fannie Mae or Freddie Mac while they are under FHFA's
12 conservatorships.

13 51. Plaintiffs are entitled to a declaration that the HOA foreclosure sales discussed
14 herein did not affect or extinguish Fannie Mae's and/or Freddie Mac's deeds of trust.

15 52. Plaintiffs have been compelled to retain the undersigned counsel to represent them in
16 this matter and have and will continue to incur attorneys' fees and costs.

17 **SECOND CAUSE OF ACTION**

18 **(Quiet Title)**

19 53. Plaintiffs reassert and incorporate herein by reference the allegations contained in
20 ¶¶ 1–52 above, as though fully set forth herein.

21 54. Pursuant to 28 U.S.C. § 2201 and Nev. Rev. Stat. § 40.010, this Court is empowered
22 to declare the rights and legal relations of the parties in this action, both generally and in relation to
23 the HOA foreclosure sales and the Properties.

24 55. Thunder Properties claims interests in the Properties through the HOA foreclosure
25 sales and trustee's and/or foreclosure deeds that are adverse to Plaintiffs' interests in the Properties.

26 56. Plaintiffs' interests in the deeds of trust that encumbered the Properties constitute
27 interests in real property.
28

57. The Enterprises' secured interests in the Properties are property of the Conservator, and applying Nev. Rev. Stat. 116.3116 *et seq.* or other state law in a manner that extinguishes Fannie Mae's and/or Freddie Mac's first-position deeds of trust would violate 12 U.S.C. § 4617(j)(3).

58. Based on the adverse claims being asserted by the parties, Plaintiffs are entitled to a judicial determination that Fannie Mae's and Freddie Mac's deeds of trust continue to encumber the Properties after the HOA foreclosure sales.

59. Plaintiffs are entitled to a determination that the HOA foreclosure sales (and any subsequent transfers) did not convey the Properties free and clear to Thunder Properties, and thus any interests acquired by Thunder Properties through the trustee's deeds, foreclosure deeds, and/or quitclaim deeds are subject to Fannie Mae's and Freddie Mac's interests in the Properties.

60. Plaintiffs have been compelled to retain the undersigned counsel to represent them in this matter and have and will continue to incur attorneys' fees and costs.

PRAYER FOR RELIEF

NOW, THEREFORE, Plaintiffs request a judgment in their favor against Defendant Thunder Properties as follows:

1. A declaration that 12 U.S.C. § 4617(j)(3) preempts any Nevada law that would permit an HOA Foreclosure Sale of a super-priority lien to extinguish the property interests of Fannie Mae and Freddie Mac while they are under FHFA conservatorships;
2. A declaration that the HOA Foreclosure Sales did not extinguish Fannie Mae and/or Freddie Mac's deeds of trust and that they continue as valid encumbrances against the Properties;
3. For a declaration that Thunder Properties' interests in the Properties, if any, are subject to the Enterprises' interests;
4. That Plaintiffs be awarded attorneys' fees and costs, plus interest accruing thereon, in their favor at the maximum rate allowed by law; and

5. That the Court award such other and further relief as it may deem appropriate.

DATED this 2nd day of August, 2016.

Respectfully submitted,

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